

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et
al.*

Debtors.¹

PROMESA
Title III

Case No. 17 BK 3283-LTS
(Jointly Administered)

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO

as representative of

PUERTO RICO ELECTRIC POWER
AUTHORITY,

Debtor.

PROMESA
Title III

Case No. 17 BK 4780-LTS

**URGENT JOINT MOTION TO HOLD IN ABEYANCE URGENT MOTION OF
FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR ORDER (I)
ESTABLISHING SCHEDULE TO CONTINUE NEGOTIATIONS DURING
LITIGATION OF GATING ISSUES PURSUANT TO LITIGATION SCHEDULE AND
(II) GRANTING RELATED RELIEF AND RESERVATION OF RIGHTS**

¹ The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747). (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations.)

TO THE HONORABLE DISTRICT COURT:

COME NOW Sistema de Retiro de Empleados de la Autoridad de Energía Eléctrica (“SREAEE”) and Unión de Trabajadores de la Industria Eléctrica y Riego, Inc. (“UTIER”) duly represented by the undersigned counsel and respectfully state as follows:

1. On September 17, 2022, at 12:02 a.m. the Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”) filed an *Urgent Motion of Financial Oversight and Management Board for Order (I) Establishing Schedule to Continue Negotiations During Litigation of Gating Issues Pursuant to Litigation Schedule and (II) Granting Related Relief* (“Urgent Motion”) [Docket No. 2956 in Case No. 17-4780)]. In essence, the Oversight Board informed that the Court-appointed Mediation Team “is not extending mediation past today, which triggers the requirement that the Oversight Board file either a plan, a plan term sheet, a proposed litigation schedule, or an explanation why the PREPA Title III case should not be dismissed.” [Docket No. 2956, ¶ 1] Therefore, the Oversight Board requested this Court to issue an order approving the proposed litigation schedule for the continuation of certain unresolved adversary proceedings and disputed matters. [Docket No. 2956, ¶ 10].
2. On the same day, at 10:59 a.m., this Court issued an *Order Scheduling Briefing and Hearing Concerning Urgent Motion of Financial Oversight and Management Board for Order (I) Establishing Schedule to Continue Negotiations During Litigation of Gating Issues Pursuant to Litigation Schedule and (II) Granting Related Relief*. [Docket No. 2958]. Pursuant to such Order, this Court granted until September 19, 2022, at 9:00 a.m. to file Responses to the Urgent Motion and Replies from the Oversight Board are due on September 20, 2022, at 9:00 a.m. The Order stated the Court will hear argument on the Urgent Motion at the omnibus hearing scheduled for September 21, 2022.

3. However, today, September 17, 2022, Governor Pedro Pierluisi-Urrutia declared a state of emergency due to the imminent passing of tropical storm Fiona, that is expected to develop into a Category 1 Hurricane as it passes through Puerto Rico later this weekend, entering through Ponce in the south of the Island.
4. UTIER and SREAEE hereby request that, pursuant to Fed. R. Evid. 201, this Court take judicial notice of the fact that Hurricane Fiona will pass through Puerto Rico during the weekend of September 17 – 18, 2022.²
5. The people of Puerto Rico, including UTIER's and SREAEE's members, and some fellow counsel are already without power or access to internet or cell phone reception due to the early rains and winds.
6. Because of this, the undersigned attorneys have been unable to confer with their clients on this matter. The weather conditions simply do not allow for counsel to comply with the Court's deadline to file Responses to the Urgent Motion on September 19, 2022, at 9:00 a.m.
7. Therefore, the undersigned respectfully request that this Court hold in abeyance the Urgent Motion, the Responses and Replies and the oral argument on the matter until the state of emergency has passed or until the weather conditions and essential services have been restored.
8. In the alternative, the undersigned file a reservation of rights on behalf of both UTIER and SREAEE, regarding their position on the issue of the Oversight Board's litigation plan and

² Rule 201. Judicial Notice of Adjudicative Facts

(a) Scope. This rule governs judicial notice of an adjudicative fact only, not a legislative fact.

(b) Kinds of Facts That May Be Judicially Noticed. The court may judicially notice a fact that is not subject to reasonable dispute because it:

(1) is generally known within the trial court's territorial jurisdiction; or

(2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.

(c) Taking Notice. The court:

(1) may take judicial notice on its own; or

(2) must take judicial notice if a party requests it and the court is supplied with the necessary information. [...]

other matters they deem necessary pursuant to the Urgent Motion.

COMPLIANCE WITH CASE MANAGEMENT PROCEDURES

Pursuant to Paragraph I.H of the *Sixteenth Amended Notice, Case Management and Administrative Procedures* [Docket No. 20190-1 in Case No. 17-3283] (the “Case Management Procedures”), SREAEE and UTIER hereby certify that they have carefully examined the matter and concluded that there is a true need for an urgent motion; they have not created the urgency through any lack of due diligence. SREAEE and UTIER did not know that the Oversight Board would file the Urgent Motion and that the Court would set a schedule with such short notice in the midst of a hurricane passing though the Island, the instant motion and the relief requested herein is urgent.

WHEREFORE, in view of the foregoing, SREAEE and UTIER request that this Court hold in abeyance the Urgent Motion, the Responses and Replies and the oral argument on the matter until the state of emergency has passed or until the weather conditions and essential services have been restored.

WE HEREBY CERTIFY that on this same date we electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all participants and Standard Parties. A courtesy copy of this Motion will be delivered to the Court by email to SwainDPRCorresp@nysd.uscourts.gov as provided in *First Amended Standing Order*.

In Ponce, Puerto Rico, this 17th day of September 2022.



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